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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,335	01/14/2004	Gregory R. Hauler	LAC03 P326	3454

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EXAMINER

JULES, FRANTZ F

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,335

Applicant(s)

HAULER, GREGORY R.

Examiner

Frantz F. Jules

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,9-15,17-33 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "the sleeve" in line 8. There is insufficient antecedent basis for this limitation in the claim as this structure has not been previously recited.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 9-15, 17-24, 27-31, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubost (US 5,249,845) in view Nielson et al (US 5,297,854).

Claims 1, 3, 9-15, 17-19, 21-24, 27-31 and 33

Dubost discloses a wheel cover assembly comprising a wheel clad assembly, comprising a body member (2) having an outer surface and an inner surface opposed across the body member from the outer surface; and at least one elongated tubularly-shaped extension (4) comprising a first material and having

Art Unit: 3617

an inner surface, a proximal portion connected to the body member, a distal portion extending in a direction away from the inner surface of the body member, and at least one irregularity (14a, 15a) spaced along a length of the distal portion of the at least one extension; and at least one tubularly-shaped insulating sleeve (9) comprising an outer surface that abuts the inner surface of the at least one extension and includes an edge portion that closely receives the irregularity of the distal portion of the at least one extension therein, thereby preventing removal of the at least one sleeve (9) from within the at least one extension in an axial direction, wherein the edge portion is adapted to engage a vehicle wheel, thereby assembling the wheel cover assembly with the vehicle wheel, and wherein the sleeve is adapted to thermally insulate the wheel covering from the vehicle wheel if made of non metal.

Dubost teaches all the limitations of the claims except for a wheel cover assembly comprising an insulative sleeve including a plurality of fingers and made of a second material different from the extension. The general concept of providing an insulative tubular sleeve to a wheel cover is well known in the art as illustrated by Nielson et al which discloses the teaching of a wheel cover comprising plastic or insulative tubular sleeve as disclosed in col 1, lines 50 which states that the wheel cover and the tubular sleeve can be made of plastic material. Also, the general concept of providing a plurality of longitudinally extending fingers to an inner tubular sleeve of a wheel cover as well as a second insulative material different from the first extension material is well known in the art as illustrated by Nielson et al which disclose the teaching of an

Art Unit: 3617

insulative sleeve (14) including a plurality of fingers (18) and made of a second material different from the extension as disclosed in col 1, lines 50-53 which states that the retainer itself can be made of a more durable resilient material such as more sophisticated plastic. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dubost to include the use of an insulative sleeve tubular sleeve in his advantageous wheel cover assembly as taught by Nielson et al in order to reduce heat conduction in the wheel cover for maintenance in the event of a flat tire following the vehicle operation. In, addition, It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dubost to include the use of an insulative sleeve including a plurality of fingers and made of a second material different from the extension in his advantageous wheel cover assembly as taught by Nielson et al in order to prevent failure in the wheel cover retention due to overheating.

Claims 2 and 20

Regarding using a sleeve comprising stainless steel as recited in claims 2 and 20, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dubost and Nielson et al to include the use of a sleeve comprising stainless steel in his advantageous system, as wheel cover insert selection is a common and everyday occurrence throughout the wheel cover design art and the specific use of a wheel cover comprising stainless steel would have been an obvious matter of design preference depending upon such factors as the loading imposed on the wheel cover, the yield strength of the sleeve material, the operating speed of the vehicle; the ordinarily skilled artisan choosing the best stress profile corresponding to a particular

Art Unit: 3617

loading imposed on the wheel cover which would most optimize the cost and performance of the device for a particular application at hand, based upon the above noted common design criteria.

Allowable Subject Matter

5. Claims 4-8, 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 25-26 and 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 11/07/2005 have been fully considered but they are moot in view of the new ground of rejection.

Applicant's argument regarding the failure of the Dubost and of the Nielson et al reference to disclose an insulative sleeve or a second material which is thermally different than the first material has been addressed in the newly revised combination rejection. The applicant's argument is weak in light of the fact that the Nilson et al reference clearly disclose the use tubular plastic sleeve material which is an insulating material. In addition, the disclosure of Nilesen et al reference of a more durable plastic material for the resilient fingers clearly establishes a precedence of a second thermally

Art Unit: 3617

insulative material which is different than the first material. The Nielson et al reference establish a prima facie case of obviousness to one of ordinary skill in the art.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 272-6681. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules
Primary Examiner
Art Unit 3617

FFJ

**FRANTZ F. JULES
PRIMARY EXAMINER**



Application/Control Number: 10/757,335

Page 7

Art Unit: 3617

December 14, 2005